

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

MICHAEL J. FORSYTHE,

Plaintiff,

v.

WILLIAM J. CHABINO,

Defendant.

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Case No. 09-CV-4170-NKL

ORDER

Before the Court is Plaintiff's Application for Fees and Cost Re: Order of May 13, 2010 [Doc. # 41].

1. On May 13, 2010, the Court vacated the default judgment in this case and, as a sanction for Defendant's failure to respond to certain discovery requests and the Court's Order to Show Cause, granted Plaintiff's attorney fees associated with the failure to respond and motion for sanctions.
2. As part of Plaintiff's application for fees, two of Plaintiff's attorneys have submitted invoices.
3. While generally noting that the rate is high, Defendant does not take issue with the hourly rate of \$250 charged by each attorney. Instead, Defendant argues that all of Plaintiff's attorney Manning's invoiced charges do not relate to hours "reasonably expended" and should not be reimbursed. *See Hensley v. Eckerhart*, 461 U.S. 424, 433-34 (1983) (discussing the lodestar method of awarding fees, multiplying the

number of hours reasonably expended by a reasonable hourly rate).

4. The Court addresses each charge, or group of charges, by Manning in turn as follows:
 - a. *Seven phone calls to Plaintiff's attorney Forsythe regarding Defendant's refusal/failure to provide discovery answers at 0.3 or 0.4 hours each, totaling 2.3 hours and \$575.00.* Plaintiff's attorney Forsythe did not bill for these calls, apparently because Plaintiff's attorneys coordinated their billings so as to not double-bill for the calls. The Court finds that 2.3 hours of calls between counsel on these issues were reasonably expended.
 - b. *Three phone calls to clients regarding lack of discovery and answering client questions regarding same, totaling .9 hours and \$225.00.* The Court finds that this time was reasonably expended.
 - c. *Two entries regarding the Court's Show Cause Order: one entry for reviewing the Order for 0.2 hours and one entry for reviewing Defendant's response to the Order at 1.1 hours, totaling \$325.00.* The Court finds that this time was reasonably expended.
 - d. *One entry for researching the effect of Defendant's failure/refusal to comply with discovery at .4 hours, totaling \$100.00.* Though Plaintiff argues that this entry occurred nearly a month prior to work on his motion for sanctions, the Court finds that such research was reasonably expended in anticipation of that motion.

Accordingly, it is hereby ORDERED that Plaintiff's application for fees and cost
[Doc. # 41] is GRANTED.

s/ NANETTE K. LAUGHREY
NANETTE K. LAUGHREY
United States District Judge

Dated: June 15, 2010
Jefferson City, Missouri